IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 284 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME-TAX

Versus

NIRMAN INVESTMENT PVT.LTD.(IVL

Appearance:

1. INCOME TAX REFERENCE No. 284 of 1992

MR MAUNA BHATT for Petitioner No. 1

SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and

MR.JUSTICE D.A.MEHTA

Date of decision: 01/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following questions of law have been referred to this Court under the provisions of Section 256(1) of the Income-tax Act, 1961 for opinion of this Court.

(1) Whether, the Appellate Tribunal is right in law and on facts in allowing interest of Rs. 14,196/- which was added by the I.T.O. on accrual basis?.

(2) Whether, the Appellate Tribunal is right in law and on facts in directing the I.T.O. to consider the addition of Rs. 14,196/- made as protective basis as substantive?"

Learned advocates appearing for the parties have submitted that in the instant case, Hon'ble Mr. Justice D.A. Mehta had appeared before the Tribunal as an advocate for the assessee. They have requested this Bench to take up the matter as they do not have any objection and more particularly when the case is covered by the judgement delivered by this Court in another matter. In pursuance of this special request made by the learned advocates, this Bench has taken up the matter for hearing.

Learned advocate Shri M.R. Bhatt has appeared for the revenue whereas learned advocate Shri R.K. Patel has appeared for the respondent-assessee.

It has been submitted by the learned advocates appearing for the parties that the questions, which have been referred to this Court, have already been answered by this Court in I.T.R. No. 110/1990 on 10th July, 2002. Looking to the law laid down by this Court in Income Tax Reference No. 110/1990, we answer the questions referred to this Court in the affirmative i.e. in favour of the assessee and against the revenue.

The Reference stands disposed of accordingly with no order as to costs.

(A.R. DAVE,J.)

(D.A. MEHTA,J.)

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